

REMARKS

Claims 1-15 were presented for examination. Claims 1 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,710,753 to Lockwood; claims 1, 5, and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,459,389 to Brown; claims 1-6, 10-11, and 13-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,478,647 to Miyamoto et al. ("Miyamoto") and claims 1-6, 8, and 10-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,685,791 to Feeney. Claims 8 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyamoto in view of U.S. Patent No. 4,399,992 to Molitor. Lastly, claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Feeney, and claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Feeney in view of Official Notice, and passage of the claims to allowance.

Applicant hereby amends claim 1 and presents the following remarks in response to the Office action. For the reasons set forth below, Applicant respectfully submits that, in view of the amendment to claim 1 and the remarks set forth herein, claim 1 and all claims depending therefrom, are in condition for allowance and respectfully requests withdrawal of all grounds of rejection.

Claim Rejections Under 35 U.S.C. § 102(b)

1. Claims 1 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lockwood. Applicant respectfully traverses the rejection as applied to the claims, as amended.

Briefly, Lockwood appears to disclose a racquet game device. The device comprises a handle and a body portion in the form of a skeletal frame composed of supporting members

which take the form of round rods of wood or other material secured at one end to an end of the handle. The free outer portions of rods are received in sleeves formed on the outer ends of right and left top frame members which extend partially around the rods along the length thereof. The inner ends of the frame members are rigidly secured to the handle by fastening members such as nails (column 1, line 59 to column 2, line 4).

With respect to amended independent claim 1, Applicant submits that Lockwood does not teach or suggest a lacrosse stick including at least a head portion having a distal end, the “distal end of the head frame being yieldably flexible” and a stem portion sharing with the head frame “at least a common continuous exterior material so as to define a unitary structure, wherein the stem and head frame differ in material flexibility.” In contrast, Lockwood discloses a handle secured to frame members by fastening members such as nails. Moreover, the distal end of the head frame of Lockwood is not “yieldably flexible”; rather, it is the bendable *rods* 12, 13, extending from the handle 10 that bend. Lockwood also does not disclose any material flexibility of either the *handle or body portion*. Because Lockwood does not have a common continuous exterior material so as to define a unitary structure, does not teach a head having a distal head frame that is yieldably flexible, and does not teach a difference in material flexibility of the handle and body portion, Lockwood’s device fails to fulfill the limitations of amended claim 1 as required by § 102(b). It is further noted that Lockwood’s device exemplifies the prior art over which the present invention improves. For example, in use, the body portion 11 of Lockwood may become detached from the handle, as is common for lacrosse sticks that have a body portion fastened to a handle.

Accordingly, Applicant respectfully submits that amended claim 1, and all claims depending either directly or indirectly therefrom, namely claim 13, are patentable over Lockwood under 35 U.S.C. § 102(b).

2. Claims 1, 5, and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Brown. Applicant respectfully traverses the rejection as applied to the claims, as amended.

Briefly, Brown appears to describe a ball catching and throwing stick or club (column 1, lines 9-11). The handle 1 and head 2 of the appliance are preferably fashioned from a single piece of wood of the requisite length and for this purpose any tough and suitably hard wood may be employed (column 1, lines 36-42).

With respect to amended independent claim 1, Applicant submits that Brown does not teach or suggest at least a lacrosse stick comprising a head portion having a distal end, the “distal end of the head frame being yieldably flexible” and a stem portion sharing with the head frame “at least a common continuous exterior material so as to define a unitary structure, wherein the stem and head frame differ in material flexibility.” Instead, Brown discloses a stock having a strip-like portion that is looped or bowed upon itself and then joined to the handle with a thong of leather. Not only does Brown’s appliance lack a common continuous exterior material so as to define a unitary structure, but the handle and head do not differ in material flexibility, as they are fashioned of the *same material* (i.e., a single piece of wood). Moreover, a wooden game appliance is not “yieldably flexible”; it would either break or it would not yield. Thus, the Brown appliance fails to fulfill the requirements of the amended claim 1 as required by § 102(b). It is further noted that Brown’s device, like that of Lockwood, is less durable than Applicant’s device, and is more susceptible to failure at the joint of the strip-like portion and the handle.

Accordingly, Applicant respectfully submits that amended claim 1, and all claims depending either directly or indirectly therefrom, namely claims 5 and 13, are patentable over Brown under 35 U.S.C. § 102(b).

3. Claims 1-6, 10-11, and 13-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Miyamoto. Applicant respectfully traverses the rejection as applied to the claims, as amended.

Briefly, Miyamoto appears to describe the production of a tennis racquet from a composite prepreg that contains two reinforcing fibers (abstract). The tennis racquet includes a circular frame including a ball hitting area and a shaft connected with the circular frame, the frame and shaft having a plural layer structure in which at least one layer is formed from the composite prepreg (column 1, lines 52-56). During manufacture, the strands of fibers (a), (b) that form the racket are arranged “with a certain regularity” to produce the unitary component (column 2, lines 36-44).

In contrast to the present claims, however, Miyamoto does not teach or suggest at least constructing a tennis racket, let alone a lacrosse stick in such a manner as to produce a head portion having a distal end, the “distal end of the head frame being yieldably flexible” and a stem portion sharing with the head frame “at least a common continuous exterior material so as to define a unitary structure, wherein the stem and head frame differ in material flexibility.” Instead, Miyamoto indicates that the obtained tennis racquet is light and tough and suitable in flexibility, but due to the “certain regularity” with which the strands are arranged, it appears to be of consistent flexibility throughout.

Amended claim 1, in other words, requires a flexible portion and a rigid portion. Miyamoto, by contrast, uses the same material throughout his construction and therefore obtains a racquet having a rigidity that does not vary. He does not even suggest the desirability of

flexibility at one end and rigidity at the other end, much less provide any teaching as to how one might achieve this contrast in physical properties.

Accordingly, Applicant respectfully submits that amended claim 1, and all claims depending either directly or indirectly therefrom, namely claims 2-6, 10-11, and 13-15, are patentable over Miyamoto under 35 U.S.C. § 102(b).

4. Claims 1-6, 8, and 10-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Feeney. Applicant respectfully traverses the rejection as applied to the claims, as amended.

Briefly, Feeney appears to describe a lacrosse stick head comprising a tube with a generally oval-shaped cross section with a length shaped into a closed loop head (abstract). The head is secured the handle with a screw which keeps the head and handle together during operation (column 3, lines 51-53). Feeney also indicates that it is possible to use appropriate designs and tooling variations in the cross-section of the head along the length thereof to allow for the optimizing of the properties of the head along its length as for stiffness, durability and the like. In the embodiment noted by the Examiner, the head and handle are formed and molded from a single tube much as racquetball rackets are fabricated (column 5, lines 12-14).

Feeney fails to anticipate the amended claim 1 for the reasons set forth above with respect to Miyamoto. Like Miyamoto, Feeney uses the same material throughout his construction, advocating “forming and molding the head and handle from a single tube.” (Column 5, lines 12-13.) And like Miyamoto, he therefore obtains a device having a rigidity that does not vary. Feeney does not even suggest the desirability of flexibility at one end and rigidity at the other end, much less provide any teaching as to how one might achieve this contrast in physical properties.

Accordingly, Applicant respectfully submits that amended claim 1, and all claims depending either directly or indirectly therefrom, namely claims 2-6, 8, and 10-15, are patentable over Feeney under 35 U.S.C. § 102(b).

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 8 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyamoto in view of Molitor. Claim 7 is rejected under the same section as being unpatentable over Feeney. Similarly, claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Feeney in view of Official Notice. Applicant respectfully traverses the rejection and submits that claims 7, 8, 9, and 12 are patentable, since they depend, directly or indirectly, from patentable independent claim 1, as amended.

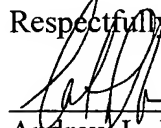
Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection, and allowance of claims 1-15 in due course. The Examiner is invited to contact Applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues. Please charge any fee occasioned by this paper to our Deposit Account No. 07-1700 with reference to docket number QKL-001.

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Respectfully submitted,



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